

Case No. 3:22-cv-00750-GCS

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the court discretion to direct otherwise.” *Rivera v. City of Chicago*, 469 F.3d 631, 634 (7th Cir. 2006). “The presumption in favor of awarding costs to the prevailing party is difficult to overcome, and the district court’s discretion is narrowly confined—the court must award costs unless it states good reasons for denying them.” *Weeks v. Samsung Heavy Industries Co., Ltd.*, 126 F.3d 926, 945 (7th Cir. 1997) (citing *Congregation of the Passion, Holy Cross Province v. Touche, Ross & Co.*, 854 F.2d 219, 222 (7th Cir. 1988)). When awarding costs, the Court considers whether the costs are recoverable and whether the amount sought is reasonable. See *Majeske v. City of Chicago*, 218 F.3d 816, 824 (7th Cir. 2000). However, before awarding costs, the Court must determine whether the party seeking costs was a “prevailing party” for purposes of the rule. See FED. R. CIV. PROC. 54(d)(1). “The losing party has the burden to affirmatively show that the prevailing party is not entitled to costs.” *M.T. Bonk Co. v. Milton Bradley, Co.*, 945 F.2d 1404, 1409 (7th Cir. 1991).

Here, Defendant Moldenhauer seeks \$615.20 in costs for fees relating to Plaintiff’s deposition transcript. (Doc. 86, p. 1). The transcript was used at the summary judgment stage. (Doc. 66-4). Defendant Moldenhauer is clearly the prevailing party in this case as he prevailed on summary judgment, and judgment was entered in his favor. (Doc. 84, 85). However, the Court, in its discretion, declines to issue the costs he seeks. The denial of costs may be warranted if the losing party is indigent and has no present or future ability to pay. See *Rivera*, 469 F.3d at 634-635. Plaintiff was incarcerated during the entire pendency of this litigation, and his trust fund account for the last six months reveals he has \$8.30. (Doc. 94). Because of his continued incarceration status, the Court finds that Plaintiff is indigent and incapable of paying the costs at any time in the near future. See

[Individual in Custody Search](#) (last visited June 23, 2025). Thus, the Court **DENIES**

Defendant Moldenhauer's Bill of Costs. (Doc. 86).

**IT IS SO ORDERED.**

**DATED: June 24, 2025.**

**Gilbert C  
Sison**

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**GILBERT C. SISON**  
**United States Magistrate Judge**